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**FROM DIRECTORS OFFICE**

**MAR 16 2005**

**TECHNOLOGY CENTER 3600**

Juan C. Di Pietro  
Estrada 1587, B1640 Martinez  
Buenos Aires,  
Argentina

In re Application of :  
Juan Carlos Di Pietro : **DECISION ON PETITION**  
Application No. 09/981,812 : **TO WITHDRAW THE**  
Filed: October 19, 2001 : **HOLDING OF ABANDONMENT**  
For: **ADAPTOR DEVICE FOR DOMESTIC SHOOTING**  
**PRACTICE WITH LARGE-CALIBRE HAND-GUNS**

This is a decision on applicant's petition to withdraw the holding of abandonment filed in the United States Patent and Trademark Office (USPTO) on October 19, 2004.

The petition is **DISMISSED**.

A review of the file record reveals that a First Office Action rejection was mailed to applicant on February 24, 2003. On May 22, 2003 and May 27, 2003 applicant submitted responses to the February 24, 2003 rejection. On June 2, 2003 a letter of Non-Compliance was sent to applicant. Applicant responded to the Non-Compliance letter with an amendment, submitted July 7, 2003. On August 20, 2003, in response to the July 7, 2003 amendment, the Office mailed a letter of Informality, indicating that a balance of \$9.00 in fees were due. The August 20, 2003 letter of Informality gave the applicant one month to remit the missing fees. Since the fees were not submitted before September 20, 2003, the application became abandoned, and a Notice of Abandonment was mailed on September 23, 2004.

In his present petition applicant now submits the \$9.00 fee due, and contends that the Fee Letter mailed August 20, 2003 was not received.

There is a strong presumption that mail properly addressed and delivered to the United States Postal Service was in fact delivered to the addressee. An allegation that an Office communication was not received may be considered in a formal petition for the withdrawal of the holding of abandonment, in accordance with *Delgar Inc. v. Schuyler*, 172 USPQ 513. However, the presumption that the Office communication was delivered to applicant may be overcome by a showing that the communication was not, in fact, received as indicated below.

Applicant's statements of non-receipt should include a statement by him, and by anyone else at applicant's correspondence address, that would have handled the Office communication. Applicant should also include any available documentary evidence of mail received, covering a reasonable period after the date of the Office communication, to show non-receipt of the communication in question. Copies of records on which the receipt date of the Office communication would have been entered had it been received, (e.g., a copy of the outside of

the file maintained by applicant), are required if available. Also, a showing of any docket records, or other method which would serve as a reminder of a response due date, should be submitted. Whatever method applicant uses as a reminder, and submits in response to this decision should be adequately explained. Also, a statement is required that a search of the file maintained by applicant, or any other location where correspondence from the USPTO is kept, failed to find a copy of the Office communication in question. Finally, applicant must state that he was in fact at the correspondence address of record at the time the Office action would have been received.

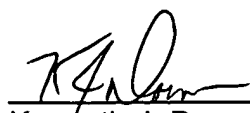
Any such exhibits should be submitted as part of statement(s) showing that no Office communication was ever received.

It is noted that, in his petition, applicant provides an "alternative" address. However, the Office will address and mail correspondence to the Correspondence Address on record, and not to other addresses provided by applicant. If applicant wishes to change his Correspondence Address, he must do so by following the procedure outlined in MPEP § 601.03. MPEP § 601.03 states,

"Where an attorney or agent of record (or applicant, if he or she is prosecuting the application *pro se*) changes his or her correspondence address, he or she is responsible for promptly notifying the U.S. Patent and Trademark Office of the new correspondence address (including ZIP code)..."

"The required notification of change of correspondence address need take no particular form. However, it should be provided in a manner calling attention to the fact that a change of address is being made. Thus, the mere inclusion, in a paper being filed for another purpose, of an address which is different from the previously provided correspondence address, without mention of the fact that an address change is being made would not ordinarily be recognized or deemed as instructions to change the correspondence address on the file record."

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181" and should be mailed to the Commissioner for Patents, P.O. Box 1450, Technology Center 3600, Alexandria, VA 22313-1450.



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Kenneth J. Dorner  
Special Programs Examiner  
Patent Technology Center 3600  
(703) 308-0866

KJD/rwg: 2/09/05